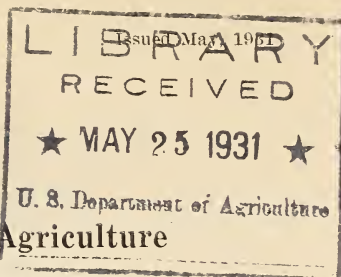


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United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICE OF JUDGMENT UNDER THE REGULATIONS OF THE NAVAL STORES ACT

[Approved by the Secretary of Agriculture, Washington, D. C., May 11, 1931]

3. Sale of gum rosin under false weights. U. S. v. Alfred A. Mayer and Lester E. Mayer (A. A. & L. E. Mayer). Demurrer filed by defendants overruled. Pleas of nolo contendere. Fines, \$200. (N. S. No. 2. N. S. I. No. 379.)

Investigation by this department of the following sale of gum rosin developed the facts that the defendants had obliterated the figures indicating the gross weight on a number of barrels of gum rosin, and without reweighing the product had substituted higher weight figures.

On April 26, 1929, the matter having been reported to the United States attorney for the Eastern District of Louisiana by authority of the Secretary of Agriculture, an information was filed in the United States District Court for said district, charging Alfred A. Mayer and Lester E. Mayer, copartners, trading as A. A. & L. E. Mayer, New Orleans, La., with violating the naval stores act of March 3, 1923.

The information alleged that on or about November 29, 1927, the defendants had obliterated the weight figures on the majority, if not all, of 100 barrels of M grade gum rosin, which weight figures represented the correct gross weight of the said barrels, and without reweighing the barrels, substituted in place of the correct figures higher and incorrect figures and had sold the said 100 barrels at the total gross weight of 51,855 pounds, whereas the correct total gross weight was 50,335 pounds; and charged that such obliteration and re-marking with incorrect and higher weights, and sale in commerce, based on the said higher and incorrect weights, constituted a false, misleading, and deceitful means and practice in the sale of naval stores in violation of the naval stores act.

On January 24, 1930, the defendants, through counsel, demurred to the information on two grounds: (1) That paragraph (d) of section 5 of the naval stores act, on which the information was based, fails to denounce the use of incorrect gross weights in the sale of naval stores, and (2) if such paragraph and section does denounce incorrect total gross weights, that it is void for uncertainty. On May 7, 1930, arguments on the demurrer were heard before the Hon. Wayne G. Borah, D. J., and briefs were submitted on behalf of the Government and the defendants. On June 11, 1930, the court overruled the demurrer without opinion. On March 12, 1931, the defendants appeared, withdrew the former pleas of "not guilty," and entered pleas of "nolo contendere," and were each fined \$100 and costs.

ARTHUR M. HYDE, *Secretary of Agriculture.*

